

EXHIBIT A

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT
for the
Eastern District of New York



William E. Culberth

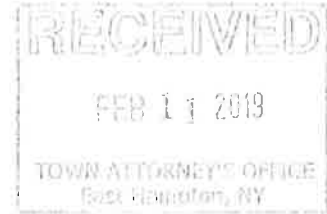
Plaintiff(s)

v.

The Town of East Hampton New York,
Frank Trotta
and Barry Johnson

Defendant(s)

Civil Action No. 2:18-cv-04796-JS-AYS



SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) Town of East Hampton New York, c/o Attorney's Office Town of East Hampton,
159 Pantigo Road, East Hampton, NY 11937

Police Officer Frank Trotta, c/o Police Department Town of East Hampton,
131 Wainscott Northwest Road, Wainscott, NY 11975

Police Officer Barry Johnson, c/o Police Department Town of East Hampton,
131 Wainscott Northwest Road, Wainscott, NY 11975

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

William E. Culberth
183 Hog Creek Road
East Hampton, NY 11937
Pro Se

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.



DOUGLAS C. PALMER
CLERK OF COURT

Date: 12/18/2018

s/ Grisel Ortiz

Signature of Clerk or Deputy Clerk

FILED
IN CLERK'S OFFICE
U.S. DISTRICT COURT E.D.N.Y.

★ AUG 23 2018 ★

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

LONG ISLAND OFFICE

WILLIAM E. CULBERTH,

Civil Action No.

Plaintiffs,

COMPLAINT
AND JURY DEMAND

-against-

THE TOWN OF EAST HAMPTON NEW YORK,
FRANK TROTTA and BARRY JOHNSON,

Defendants.

CV18 4796

Plaintiff, Pros Se, alleges as follows:

SEYBERT, J.

PARTIES

1. Plaintiff WILLIAM E. CULBERTH is a citizen of the State of New York **SHIELDS, M.J.**
County of Suffolk, residing at 183 Hog Creek Road, East Hampton, New York 11937.

3. That at all times hereinafter mentioned, Defendant Town of East Hampton, New York was and is a Town, duly organized and existing under and by virtue of the laws of the State of New York located in Suffolk County, New York.

4. Defendant Frank Trotta is and was a police officer employed by defendant Town of East Hampton and Defendant Barry Johnson is and was a police officer employed by defendant Town of East Hampton. (Defendants Frank Trotta and Barry Johnson are referred to as "Defendant Police Officers").

5. At all times mentioned herein, Defendant Police Officers were acting under color of state law, to wit, under color of the statutes, ordinances, regulations, policies, customs and usages of the Town of East Hampton.

JURISDICTION AND VENUE

6. This action is brought pursuant to 42 U.S.C. Sections 1983 and 1985 and the Fourth, Fifth and Fourteenth Amendments to the Constitution of the United States. Pendant jurisdiction, pendant party jurisdiction and supplementary jurisdiction over plaintiff's state law

RECEIVED

AUG 23 2018

EDNY PRO SE OFFICE

claims is asserted. Pursuant to 28 U.S.C. Section 1331, jurisdiction is founded on a case arising under the Constitution of the United States and federal laws.

7. All parties are citizens of the State of New York.
8. The amount in controversy exceeds \$75,000.00 excluding interest and costs.
9. Venue is laid within the United States District Court for the Eastern District of New York in that all parties reside in and the events giving rise to the claims occurred within the boundaries of the Eastern District of New York pursuant to 28 U.S.C. Section 1391.

NOTICE OF CLAIM

10. Within 90 days of the occurrences of these incidents, plaintiff served a written Notice of Claim upon the defendant Town of East Hampton. More than 30 days have lapsed since the Notice of Claim was served and this matter has not been settled, compromised or otherwise disposed of by the defendant Town of East Hampton.

FIRST CAUSE OF ACTION (MALICIOUS PROSECUTION)

11. On January 23, 2014 Plaintiff was wrongfully and unconstitutionally arrested by defendant Police Officers. Plaintiff was charged with disorderly conduct, harassment, resisting arrest.

12. Plaintiff was wrongfully and illegally prosecuted by defendants and Plaintiff was convicted. Defendants acted maliciously and intentionally in prosecuting Plaintiff.

13. Defendants caused a false criminal accusatory instrument to be filed against plaintiff.

14. On August 24, 2017, the Appellate Term of the Supreme Court of the State of New York reversed the conviction of the Plaintiff and dismissed the criminal charges against Plaintiff.

15. The criminal instrument was dismissed and the criminal proceedings favorably terminated.

16. Plaintiff was damaged in the sum of Five Hundred Thousand (\$500,000.00) Dollars as a result of the malicious prosecution implemented by the defendants.

**SECOND CAUSE OF ACTION
(MUNICIPAL LIABILITY)**

17. Paragraphs 1 through 16 are incorporated herein by reference.

18. As the employer of the defendant Police Officers, defendant Town of East Hampton is liable for the damages suffered by the plaintiff as a result of the conduct of defendant Police Officers.

19. Defendant Town of East Hampton knew or should have known of defendant police officers' propensity to engage in the illegal and wrongful acts detailed above.

20. Upon information and belief, defendants and their supervisors have in the past falsely arrested individuals, solicited improper prosecutions of such individuals, and made, and allowed other fellow police officers, to make false entries in official police department records to cover up and hide assaults batteries and false arrests by police officers.

21. Defendant Town of East Hampton has failed to take the steps to discipline, train, supervise or otherwise correct the improper, illegal conduct of defendant officers in this and in similar cases involving police violence and misconduct.

22. Defendants Town of East Hampton has damaged the plaintiff by its failure to properly supervise, train, discipline, review, remove, or correct the illegal and improper acts of defendants and other police officers in this and in similar cases involving police violence and misconduct.

23. Defendants Police Officers know that the defendant Town of East Hampton does not effectively nor aggressively discipline, review, remove or otherwise correct the illegal and improper acts of police officers in this case and in similar cases involving police violence and misconduct.

24. Plaintiff has been damaged as a result of the wrongful, negligent and illegal acts of the defendant Town of East Hampton in the amount of Five Hundred Thousand (\$500,000.00) Dollars.

**THIRD CAUSE OF ACTION
(42 U.S.C. Section 1983)**

25. Paragraphs 1 through 24 are incorporated herein by reference.

26. Defendants have deprived plaintiff of his civil, constitutional and statutory Rights and have conspired to deprive him of such rights and are liable to plaintiffs under 42 U.S.C. Section 1983 and 1985 and the N.Y. State Constitution.

27. Plaintiff has been damaged as a result of defendants' wrongful acts in the amount of Five Hundred Thousand (\$500,000.00) Dollars.

JURY DEMAND

Plaintiff demands a trial by jury in this action.

WHEREFORE, plaintiff demand judgment against the defendants, jointly and severally, as follows:

- A. In favor of plaintiff in the amount of Five Hundred Thousand (\$500,000.00) Dollars on each of plaintiff's Causes of Action;
- B. Awarding plaintiff punitive damages in the amount of Five Hundred Thousand (\$500,000.00) Dollars;
- C. Awarding plaintiff reasonable attorneys' fees, costs and disbursements of this action; and
- D. Granting such other and further relief as this Court deems just and proper.

Dated: New York, New York
August 23, 2018


WILLIAM E. CUMBERTH

Plaintiff Pro Se
183 Hog Creek Road
East Hampton, New York 11937
New York, New York 10019

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

-----X

WILLIAM E. CULBERTH,

Civil Action No.

Plaintiff,

-against-

**THE TOWN OF EAST HAMPTON NEW YORK,
FRANK TROTTA and BARRY JOHNSON,**

Defendants.

-----X

COMPLAINT AND JURY DEMAND

**WILLIAM E. CULBERTH
Plaintiff Pro Se
183 Hog Creek Road
East Hampton, New York 11937
(212)595-7575**

JS 44 (Rev. 01/29/2018)

CIVIL COVER SHEET

FILED
IN CLERK'S OFFICE

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers required by the Federal Rules of Civil Procedure, N.Y. provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

★ AUG 23 2018 ★

I. (a) PLAINTIFFS

William E. Culberth

(b) County of Residence of First Listed Plaintiff
(EXCEPT IN U.S. PLAINTIFF CASES)

Suffolk

(c) Attorneys (Firm Name, Address, and Telephone Number)

pro se

DEFENDANTS

The Town of East Hampton, New York, et al.

County of Residence of First Listed Defendant

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

CV 18 4796

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

SHIELDS, M.J.

Check here for: Nature of Suit Code Descriptions.

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 830 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes

ORIGIN (Place an "X" in One Box Only)

- ☒ Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District (specify)
- ☐ 6 Multidistrict Litigation - Transfer
- ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

42 USC 1983 and 1985
Brief description of cause:
Civil Rights

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See Instructions):

JUDGE

DOCKET NUMBER

DATE 8/23/18

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

CERTIFICATION OF ARBITRATION ELIGIBILITY

Local Arbitration Rule 83.10 provides that with certain exceptions, actions seeking money damages only in an amount not in excess of \$150,000, exclusive of interest and costs, are eligible for compulsory arbitration. The amount of damages is presumed to be below the threshold amount unless a certification to the contrary is filed.

Case is Eligible for Arbitration ☐

I, _____, counsel for _____, do hereby certify that the above captioned civil action is ineligible for compulsory arbitration for the following reason(s):

☐
☐
☐

monetary damages sought are in excess of \$150,000, exclusive of interest and costs,

the complaint seeks injunctive relief,

the matter is otherwise ineligible for the following reason

DISCLOSURE STATEMENT - FEDERAL RULES CIVIL PROCEDURE 7.1

Identify any parent corporation and any publicly held corporation that owns 10% or more of its stocks:

RELATED CASE STATEMENT (Section VIII on the Front of this Form)

Please list all cases that are arguably related pursuant to Division of Business Rule 50.3.1 in Section VIII on the front of this form. Rule 50.3.1 (a) provides that "A civil case is 'related' to another civil case for purposes of this guideline when, because of the similarity of facts and legal issues or because the cases arise from the same transactions or events, a substantial saving of judicial resources is likely to result from assigning both cases to the same judge and magistrate judge." Rule 50.3.1 (b) provides that "A civil case shall not be deemed 'related' to another civil case merely because the civil case: (A) involves identical legal issues, or (B) involves the same parties." Rule 50.3.1 (c) further provides that "Presumptively, and subject to the power of a judge to determine otherwise pursuant to paragraph (d), civil cases shall not be deemed to be 'related' unless both cases are still pending before the court."

NY-E DIVISION OF BUSINESS RULE 50.1(d)(2)

- 1.) Is the civil action being filed in the Eastern District removed from a New York State Court located in Nassau or Suffolk County? ☐ Yes ☒ No
- 2.) If you answered "no" above:
- a) Did the events or omissions giving rise to the claim or claims, or a substantial part thereof, occur in Nassau or Suffolk County? ☒ Yes ☐ No
- b) Did the events or omissions giving rise to the claim or claims, or a substantial part thereof, occur in the Eastern District? ☒ Yes ☐ No
- c) If this is a Fair Debt Collection Practice Act case, specify the County in which the offending communication was received:

If your answer to question 2 (b) is "No," does the defendant (or a majority of the defendants, if there is more than one) reside in Nassau or Suffolk County, or, in an interpleader action, does the claimant (or a majority of the claimants, if there is more than one) reside in Nassau or Suffolk County? ☐ Yes ☐ No

(Note: A corporation shall be considered a resident of the County in which it has the most significant contacts).

BAR ADMISSION

I am currently admitted in the Eastern District of New York and currently a member in good standing of the bar of this court.

☐

Yes

☐

No

Are you currently the subject of any disciplinary action (s) in this or any other state or federal court?

☐

Yes

(If yes, please explain

☐

No

I certify the accuracy of all information provided above.

Signature: _____